

offer direct-trunked transport and special access would have to invest in transmission equipment, fiber, and a variety of other equipment to connect access customers with interexchange carriers (IXCs). A new entrant's decision to enter is, therefore, based on its expectation that it will be able to recover, within a reasonable time frame, its cost of these up-front investments, along with the on-going costs of providing access services, plus a reasonable return on its investment. SWBT, being the incumbent provider, has already made such investments and has a customer base that allows it to benefit from significant economies of scale.¹¹⁹ Therefore, it may well be in SWBT's long-term interest to deprive entrants of the opportunity to achieve significant economies by locking in large customers using customer-specific, long-term contracts before a competitor enters on a facilities basis. SWBT may find it advantageous to offer lower prices to a few relatively large access customers even when such reductions might not, in the short term, contribute as much to profits as would a generally available tariffed rate.¹²⁰

50. The broad geographic reach of Transmittal No. 2633 exacerbates our public interest concerns. SWBT's proposal would allow it to respond to any RFP within its region, even in areas in which new competition is incipient or is absent altogether. If the incumbent is able to develop a reputation of aggressively competing via targeted bids with recent entrants by doing so in a handful of markets, it may be able to dissuade potential entrants from entering any of its other markets. Thus, the incumbent may protect its monopoly position in all of its markets by aggressively competing in markets where entry initially occurs.¹²¹ The ability to lower prices on a customer-specific basis anywhere in SWBT territory would make this strategy much less costly for SWBT, and would weigh heavily in a new entrant's decision to establish a facilities-based presence in any SWBT geographic market. Similarly, entrants that have yet to realize such economies may be forced to withdraw from the market or curtail expansion plans if SWBT is able to capture a large portion of the market through customer-specific responses to written requests for bids. Thus, we also consider here the amount of competition faced by an incumbent throughout its entire region and the openness of its markets rather than considering solely whether a single new entrant has responded to an individual customer's RFP.

¹¹⁹ Because an incumbent has already invested in facilities, a large portion of its costs are considered sunk, and should not affect pricing decisions. Only on-going costs, or variable costs, must be covered in the short-run once an investment is made.

¹²⁰ In this situation, SWBT would not have to price its service below its incremental cost. When new entrants have not reached a level of output where they benefit from economies of scale, their incremental costs are greater than the incumbent's. See Rasmusen, Eric B., J. Mark Armseyer, and John S. Wiley, Jr. "Naked Exclusion," *American Economic Review* (December 1991) Vol. 81, No. 5, pp. 1137-1145.

¹²¹ Ordover, Janusz, A. and Garth Saloner "Predation, Monopolization, and Antitrust" in *Handbook of Industrial Organization*, Schmalensee, Richard & Robert D. Willig, eds., Vol. 1, 1989 Elsevier Science Publishers B.V., pp. 550-556.

51. We also find that competitors are likely to have to enter SWBT's market in part by relying on the use of SWBT's network. Therefore, in evaluating Transmittal 2633, we must also consider the potential for SWBT to use its market power to foreclose or deter entry arising from SWBT's control and provision of the inputs that some of its competitors may require access to in order to compete. Allowing SWBT to respond to RFPs before its market is open to competition creates a situation where SWBT can disadvantage its rivals by denying them access to key inputs. We are therefore considering whether incumbent LECs should be required to make key inputs available at reasonable rates before they are allowed to respond to RFPs.¹²²

52. To the extent that SWBT is arguing that it should have precisely the same pricing flexibility freedoms as we accord to competitive access providers (CAPs) and other new entrants and therefore be permitted to offer Transmittal No. 2633, we disagree.¹²³ For example, the Telecommunications Act of 1996 specifically recognizes that incumbent LECs and new entrants are not equivalent; section 251(c) creates a series of market-opening obligations that apply to incumbent LECs but not other LECs.¹²⁴ When robust competition is widespread we should do everything possible to eliminate anomalies or asymmetries between the rules applicable to incumbents and the rules applicable to new entrants. In the interim, we expect to continue to lessen regulatory constraints as competition increases. Our access charge proceeding will enable us to consider as a broader matter, beyond the record presented here, when and under what circumstances incumbent LECs should be accorded greater pricing flexibility than they already have. The present record in this case, however, incorporates no persuasive showing that SWBT is experiencing substantial competition throughout its region. In short, the regulatory treatment of CAPs and SWBT is predicated on their markedly different economic circumstances and competitive opportunities.

53. Thus, in a competitive setting, we generally would agree that regulation of new entrants and incumbent LECs should be symmetrical, and recognize that allowing SWBT to respond to written bid requests in markets where entrants have sufficiently established themselves would result in lower prices, and presents SWBT little opportunity to take actions that may lessen competition. Based on this record, however, we conclude that SWBT is experiencing minimal competition throughout its region and the economic characteristics of CAPs and SWBT are strikingly different. First, CAPs are attempting to enter a market dominated by incumbent providers, may not have attracted a sufficient amount of business to achieve economies of scale, and are, therefore, generally unable to behave anti-competitively.

¹²² See *Access Charge Reform NPRM*, 11 FCC Red at 21427, 21439.

¹²³ SWBT Direct Case at 2, n.2.

¹²⁴ Cf. 47 U.S.C. § 251(c) (additional obligations imposed only on incumbent LECs) with 47 U.S.C. § 251(b) (obligations imposed on all local exchange carriers).

Because CAPs face substantial competition from incumbent LECs, they are often unable to take any action that will result in a lessening of competition. In contrast, SWBT, by virtue of its incumbency, enjoys significant economies of scale, and could potentially deter entry by targeting access service offerings to a few large customers. We, therefore, generally find it in the public interest to regulate SWBT and its competitors differently to reflect the economic characteristics of the marketplace.¹²⁵ Thus we conclude that, absent a more compelling showing that competition for access services exists throughout SWBT's region, allowing SWBT under Transmittal No. 2633 to respond to any written request for bids within its territory is contrary to the public interest, but find no compelling public policy reason to limit the actions of CAPs.

54. In conclusion, on the current record, we find that in such markets, the benefit of allowing SWBT to respond on a customer-specific basis to a written bid request as provided in Transmittal No. 2633 is outweighed by the threat that SWBT will use such pricing flexibility unreasonably to deter or foreclose entry. We recognize that this may result in SWBT losing some customers in RFP situations. Granting SWBT the ability selectively to respond with highly particularized offers to written bid requests, before new entrants have established themselves in a particular market, however, may result in SWBT deterring more efficient entrants from profitably entering the market. Thus, Transmittal 2633 may well result in less, rather than more, competition in the long run. We find that Transmittal No. 2633 is against the public interest for the reasons stated above. Because Transmittal No. 2633 is against the public interest, its discriminatory rates are unjust and unreasonable in violation of section 202(a). We further conclude that, at least until we revisit these issues in the broader context of the rulemaking proceeding, we will not apply the competitive necessity doctrine to dominant local exchange carriers who are proposing customer-specific tariffs because we find that such an application would thwart the public interest of promoting competition in the local exchange and exchange access markets.

55. We also reject SWBT's arguments relying on the Commission's Notice of Proposed Rulemaking in the *Regulation of Basic Services* docket.¹²⁶ The Commission terminated that docket in 1990 in light of "sufficient changes in the telecommunications marketplace and regulation" that had occurred since 1987, including the introduction of price cap regulation for AT&T and proposals to adopt such regulation for LECs, integrated service offerings under AT&T's Tariff 12, and other changes in the interexchange marketplace.¹²⁷ In

¹²⁵ The ability of new entrants to win customers through the use of contracts guarantees them a stream of revenues, increasing the likelihood that their entry will be successful.

¹²⁶ *SWBT October 9, 1997 Ex Parte* at 2.

¹²⁷ *Decreased Regulation of Certain Basic Telecommunications Services*, Order, 5 FCC Rcd 5412 (1990) (*Regulation of Basic Services NPRM*).

light of such changes that granted other significant forms of pricing flexibility, the Commission decided not to adopt its competitive bid proposal. Accordingly, the tentative conclusions of the NPRM are of no decisional significance here.

56. The Access Reform Proceeding. In the past, the Commission has demonstrated that as competition develops, it will grant flexibility to incumbent LECs to allow them greater freedom to address that competition.¹²⁸ SWBT already has available to it various measures of pricing flexibility, to meet such competition, including volume and term discounts. As SWBT moves to respond to competition, it has the freedom to file new volume and term discounts and new zone density rates as generally available tariffs. In the *Access Charge Reform* proceeding, we are considering various proposals concerning pricing flexibility for incumbent LECs. The various proposals concern, *inter alia*, the issues of competitive response tariffs, contract tariffs, volume and term discounts, geographic deaveraging.¹²⁹ A more complete record may convince us that our concerns here about an incumbent LEC's ability to foreclose or deter market entry should not apply to these or similar sorts of tariffs. Based on the record before us, however, we find that Transmittal 2633 presents a significant potential for harm to the competitive market, and we, therefore, reject it as unlawful.

3. The competitive necessity doctrine is not a defense to any violation here of the DS-3 ICB Order's prohibition against dominant LECs offering tariffs on an individual case basis or of the Commission's policies concerning contract tariffs.

57. DS-3 ICB Order. Under the *DS-3 ICB Order*, the Commission held that ICB pricing of DS-3 service raises a presumption of unreasonable discrimination under section

¹²⁸ See *NYNEX Telephone Companies Petition for Waiver*, Memorandum Opinion and Order, 10 FCC Rcd 7445, 7462 (1995) (*Universal Service Preservation Plan Order*) (NYNEX permitted to deaverage certain access charge elements in LATA 132 after finding that "the earlier monopoly environment has eroded to a sufficient degree" within that LATA); *Ameritech Operating Companies Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region*, Order, 11 FCC Rcd 14028 (1995) (*Customers First Order*) (permitting Ameritech to deaverage the transport interconnection and carrier common line access charges in the Chicago and Grand Rapids LATAs). In both of these cases, the carriers filed formal waiver requests and made significantly greater competitive showings for approval of less discriminatory pricing practices than that sought by SWBT here. The grant of flexibility to those carriers included competitive safeguards, such as removal of the discounted rates from the carriers' price cap calculation to ensure that other customers would not pay higher rates as a result of the discounts.

¹²⁹ See *Access Charge Reform NPRM*, 11 FCC Rcd at 21432-21440. See *id.* at 21445-448 (discussing possible deregulation reforms including different prices for access for different classes of end users, modifications to our rate structure rules for transport and local switching, and the consolidation of various baskets).

202(a) of the Act.¹³⁰ In the *Designation Order*, the Bureau questioned whether Transmittal No. 2633 complied with the *DS-3 ICB Order*'s restriction on ICB tariff offerings by dominant LECs.¹³¹

58. SWBT, in its Direct Case, contends that, because it has not "filed" its RFP tariff as an ICB tariff, its RFP tariff does not violate the Commission's prohibition against ICB tariffs for other than new offerings.¹³² The IXCs and new entrants disagree, stating that the individualized pricing options embodied in Transmittal No. 2633 render it an ICB tariff, and that SWBT has failed to comply with the stringent requirements that enable incumbent LECs to offer ICB pricing.¹³³ Sprint and GST observe that the Commission has interpreted section 202(a) as prohibiting a carrier from pricing the same service as both ICB and non-ICB, and that Transmittal No. 2633 violates this policy.¹³⁴ In its Reply, SWBT argues that because the Commission's competitive necessity doctrine applies to Transmittal No. 2633, all other Commission rules and policies (including prohibitions against contract tariffs and ICB offerings) must be read in light of the doctrine's applicability.¹³⁵ It argues that to reject Transmittal No. 2633 as an unlawful contract tariff or ICB tariff without considering the doctrine would be arbitrary and capricious.¹³⁶

59. As stated above, because of our concerns that Transmittal No. 2633 might stifle competitive entry, we conclude it would not be in the public interest to permit SWBT to invoke the competitive necessity defense to justify Transmittal No. 2633's discriminatory pricing. We have already concluded that Transmittal No. 2633 violates our rules requiring averaged rates.¹³⁷ SWBT does not contend that Transmittal No. 2633 fits any of the exceptions that would make it a *lawful* ICB tariff, irrespective of competitive necessity and the average rates requirement. Because we find this tariff unlawful on other grounds, we

¹³⁰ *DS-3 ICB Order*, 4 FCC Rcd at 8641-8642.

¹³¹ *Designation Order* at para. 12. According to the Bureau, ICB offerings refer to the carrier practice of providing a particular service in response to a specific request from a customer under individualized rates, terms, and conditions. *Id.* at para. 20 (citing "Common Carrier Bureau Restates Commission Policy on Individual Case Basis Tariff Offerings," Public Notice, 11 FCC Rcd 4001 (Com. Car. Bur. 1995)).

¹³² SWBT Direct Case at 3-4.

¹³³ TCG comments at 6-7; GST Comments at 5;

¹³⁴ Sprint comments at 4; GST comments at 5.

¹³⁵ SWBT Reply at 2.

¹³⁶ SWBT Reply at 2-3.

¹³⁷ See Section IV.A.1., *supra*.

need not reach the issue of whether Transmittal No. 2633 is also unlawful under our ICB pricing prohibitions.

60. The Commission's Contract Tariff Policies. In the *Designation Order*, the Bureau raised the issue of whether Transmittal No. 2633 violates the Commission's policy prohibiting dominant LECs from offering contract tariffs.¹³⁸ The Bureau noted that, in the *Access Charge Reform NPRM*, the Commission has proposed to permit dominant LECs to offer RFP and other contract tariffs upon a showing that a certain level of competition exists in the market and has sought comment on the level of competition that must be shown to exist prior to permitting incumbent LECs to offer contract and RFP tariffs.¹³⁹ The Bureau observed that, although the Commission ultimately may decide that LECs may offer contract and RFP tariffs, current Commission policy prohibits such tariffs,¹⁴⁰ and that Transmittal No. 2633 appeared to run afoul of this prohibition. The Bureau sought comment on this issue. The Bureau also observed that a finding that Transmittal No. 2633 is an RFP tariff would compel rejection of the transmittal, assuming the Commission were to find against SWBT on the issue of competitive necessity.¹⁴¹

61. In its Direct Case, SWBT argues that current Commission policy does not prohibit RFP tariffs. According to SWBT, section 61.3(m) of our rules stands only for the proposition that interexchange carriers (IXCs) and non-dominant carriers *may* offer contract tariffs, but does not preclude LECs from offering them.¹⁴² SWBT further argues that, although RFP tariff filings are the subject of an ongoing Commission rulemaking, competition for LEC services has not waited for the Commission's decision in that proceeding, and that the competitive necessity doctrine justifies SWBT's filing of an RFP tariff.¹⁴³ SWBT further argues that it did not formally file its RFP tariff as a contract tariff, and therefore should not be subject to the Commission's prohibition against contract tariff filings by dominant LECs.¹⁴⁴ AT&T states SWBT is being "disingenuous" in claiming it did not file Transmittal No. 2633 as a contract tariff. AT&T argues that Transmittal No. 2633 must be considered a contract

¹³⁸ See *Designation Order* at para. 18.

¹³⁹ *Designation Order*, at para. 4 (citing *Access Charge Reform NPRM*, 11 FCC Rcd at 21439).

¹⁴⁰ See *Access Charge Reform NPRM* at 21428, 21439-21440.

¹⁴¹ SWBT argues that the competitive necessity doctrine provides a defense to this requirement. See Section IV.A.2.a., *supra*.

¹⁴² SWBT Direct Case at 3.

¹⁴³ SWBT Direct Case at 3.

¹⁴⁴ SWBT Direct Case at 3.

tariff because its offer of customized service to a specific customer contains all the elements the Commission previously has identified as characteristics of a contract tariff.¹⁴⁵ TCG characterizes SWBT's argument that it did not "file" Transmittal No. 2633 as a contract tariff as an attempt to elevate form over substance.¹⁴⁶ AT&T, TCG, KMC, and GST all contend that, pursuant to section 61.3(m), dominant LECs by definition may not offer contract tariffs.¹⁴⁷

62. The Commission has never authorized dominant LECs to offer contract tariffs. In the *Expanded Interconnection* and *Virtual Collocation* orders, the Commission rejected incumbent LEC pleas that they be permitted to offer contract tariffs.¹⁴⁸ We have already concluded that Transmittal No. 2633 violates our rules requiring averaged rates, and found that the record does not support permitting use of the competitive necessity doctrine as a defense for this rule violation.¹⁴⁹ SWBT has put forth no argument (other than competitive necessity) that Transmittal No. 2633 somehow constitutes a lawful contract tariff, so as to cure the violation of our averaging requirement. Accordingly, we need not reach the issue of whether Transmittal No. 2633 constitutes an unlawful contract tariff.

B. Application for Review of Bureau denial of SWBT's waiver request.

63. In footnote 5 of its Description and Justification, SWBT sought a waiver of the *DS-3 ICB Order*, or "any of [the Commission's] rules . . . necessary for SWBT's filing to take effect."¹⁵⁰ Under section 1.3 of our rules, the Commission may waive any provision of its rules or orders if "good cause" is shown.¹⁵¹ The standard of good cause requires the petitioner to demonstrate that special circumstances warrant deviation from the rules or orders and that such a deviation would better serve the public interest than the general rule. Moreover, grant of a waiver presumes the validity of the general rule, must not undermine the policy served by the rule, and must not be so broad as to eviscerate the rule. Rather, the

¹⁴⁵ AT&T comments at 2.

¹⁴⁶ TCG comments at 5.

¹⁴⁷ AT&T comments at 2-3; TCG comments at 4; KMC comments at 2, GST comments at 3.

¹⁴⁸ See *Virtual Collocation Order*, 9 FCC Rcd at 5206-5207 (rejecting incumbent LEC arguments that they should be able to engage in individual case basis contract and competitive response pricing); *Expanded Interconnection Order*, 9 FCC Rcd at 2731 (rejecting contract tariffs).

¹⁴⁹ See Sections IV.A.1. and IV.A.2., *supra*.

¹⁵⁰ D&J at 3 n.5.

¹⁵¹ See 47 C.F.R. § 1.3.

request must be tailored to the specific contours of the exceptional circumstances.¹⁵² Parties must obtain a waiver before filing any tariff that would conflict with the Commission's rules. Failure to observe this procedure is grounds for rejecting the tariff.¹⁵³

64. The Bureau found that SWBT's one-sentence waiver request, contained in a footnote to its Description and Justification, failed to identify each of the particular rules from which it seeks relief or to describe any special circumstances justifying grant of a waiver.¹⁵⁴ On August 13, 1997, SWBT filed an application for review of the Bureau's denial of its waiver request, arguing that the Bureau's decision was premature "since even the Bureau is unsure as to which rules might affect SWBT's RFP tariff filing." According to SWBT, it is therefore inappropriate to reject SWBT's waiver request on the "sole ground" that SWBT has not identified each of the particular rules from which SWBT seeks relief. SWBT argues that the better course of action would be to allow the waiver request to remain in effect pending a ruling by the Commission on SWBT's Transmittal No. 2633.¹⁵⁵

65. In opposition, MCI argues that SWBT mischaracterizes the Bureau's decision. According to MCI, the Bureau rejected SWBT's waiver request because SWBT failed to satisfy any of the applicable waiver standards, including the identification of the particular rules for which waiver is sought.¹⁵⁶ MCI states further that SWBT's mere invocation of competitive necessity does not permit it to file a tariff that violates Commission rules, and that SWBT must first file a formal waiver request as NYNEX and Ameritech have done in comparable situations.¹⁵⁷ Sprint comments that, since SWBT did not support its waiver request, the Bureau properly denied it.¹⁵⁸

¹⁵² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *See also Wait Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

¹⁵³ *U S West Communications, Inc., Revisions to Tariff F.C.C. No. 5, Transmittal No. 525*, 9 FCC Rcd 5228 (Com. Car. Bur. 1994).

¹⁵⁴ *Designation Order*, at para. 14.

¹⁵⁵ *Application for Review of Southwestern Bell Telephone Company*, CC Docket No. 97-158, at 2-3 (filed Aug. 13, 1997).

¹⁵⁶ *MCI Opposition to Application for Review*, CC Docket No. 97-158 (filed Aug. 28, 1997) at 2.

¹⁵⁷ MCI comments at 5-6 (citing *NYNEX Telephone Companies Petition for Waiver, Memorandum Opinion and Order*, 10 FCC Rcd 7445, 7462 (rel. May 4, 1995) and *Ameritech Operating Companies Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region*, Order, 11 FCC Rcd 14028 (rel. Feb. 15, 1996)).

¹⁵⁸ Sprint comments at 5.

66. We disapprove of the practice of inserting vague, unsupported waiver requests in footnotes to Description and Justification transmittals. SWBT's argument that it need not identify the rules for which waiver is sought is unavailing. It is not the Bureau's role to evaluate vague requests for waiver and identify all possible rule violations in order to determine whether those rules should be waived. Further, SWBT's application for review fails to answer the substantive shortcomings the Bureau identified in the initial waiver request. In any event, to the extent that SWBT's waiver request was intended to be a part of its defense based on the competitive necessity doctrine, we have concluded above that such a defense is not available here, and thus any accompanying waiver request should be denied. Accordingly, SWBT's application for review is denied.

V. CONCLUSION

67. We conclude that competitive necessity is not available as a defense for a dominant carrier to justify a customer-specific offering that is not generally available to similarly situated customers. We conclude that Transmittal No. 2633's provisions could enable SWBT to forestall unreasonably the development of competition by foreclosing or deterring market entry by potential competitors, and therefore that the discrimination inherent in the transmittal is unreasonable. For the reasons stated above, we find that the public interest requires us to find Transmittal No. 2633 unlawful.

VI. ORDERING CLAUSES

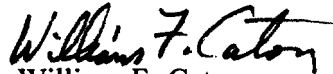
68. **IT IS ORDERED** that, pursuant to Sections 4(i), 202(a), 204, and 205 of the Communications Act, 47 U.S.C. §§ 154(i), 202(a), 204, and 205 that the tariff revisions proposed in Southwestern Bell Telephone Company Transmittal No. 2633 **ARE UNLAWFUL**.

69. **IT IS FURTHER ORDERED** that the Southwestern Bell Telephone Company **SHALL FILE** revisions to remove all of the tariff revisions submitted under Transmittal No. 2633 no later than five business days after the release of this Order. Southwestern Bell Telephone Company shall refer to the "FCC" number of this Order as the authority for making this filing.

70. **IT IS FURTHER ORDERED** that Southwestern Bell Telephone Company's application for review of the Common Carrier Bureau's denial of Southwestern Bell Telephone Company's request for waiver of the Commission's rules is **DENIED**.

71. **IT IS FURTHER ORDERED** that pursuant to section 204(a) of the Communications Act, 47 U.S.C. § 204(a), the investigation instituted by the Common Carrier Bureau in CC Docket No. 97-158 for Southwestern Bell Telephone Company Transmittal No. 2633 **IS TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

November 14, 1997

**Concurring Statement of
Commissioner Harold Furchtgott-Roth**

Re: Southwestern Bell Telephone Company, Tariff F.C.C. No. 73

Based on the facts and record of this proceeding, I believe that Southwestern Bell Telephone Company's (SWBT's) Transmittal No. 2633 should be rejected. I share the concern, expressed in the majority's decision, that Southwestern Bell has not on this record demonstrated adequately that it faces competition sufficient to warrant the pricing flexibility sought by its tariff offering. Accordingly, I concur in the result the majority's decision reaches.

Nevertheless, I write separately because I believe that the majority's decision, in its public interest analysis, addresses issues that are more appropriately considered in the context of the pending *Access Reform* proceeding's broader inquiry into pricing flexibility for dominant local exchange carriers (LECs). The competitive necessity defense issue raised by SWBT's tariff transmittal is only part of the larger issues concerning pricing flexibility for dominant LECs. As such, the more developed record in the *Access Reform* proceeding provides the appropriate context in which to consider the issues relating to the circumstances under which dominant LECs should be accorded additional pricing flexibility. Consequently, I reserve judgment on those issues until the upcoming *Access Reform* order.

November 14, 1997

SEPARATE STATEMENT OF COMMISSIONER MICHAEL K. POWELL

Re: Southwestern Bell Telephone Company, Tariff F.C.C. No 73

I support this decision to reject Southwestern Bell Telephone Company's Transmittal No. 2633. I agree that at this time, based on this record, we cannot grant the broad relief the company seeks. I do so reluctantly in cases where consumers stand to benefit from lower prices, as is the case here. However, I am convinced that to grant the relief requested now would very possibly raise new barriers to entry and that the question of pricing flexibility is a component of a whole host of complex questions that are best addressed in our Access Reform Proceeding. Nonetheless, I write separately to emphasize how important it will be for the Commission to provide clear guidelines as to when and under what conditions, dominant local exchange carriers can offer customers lower prices in response to competitive pressures from new entrants as we transition from a regulatory regime to a market-oriented one.